

ASSEMBLY BILL

No. 2487

Introduced by Assembly Member Wagner

February 21, 2014

An act to amend Section 869 of the Penal Code, relating to witness testimony.

LEGISLATIVE COUNSEL'S DIGEST

AB 2487, as introduced, Wagner. Witness testimony: copies of transcripts.

Existing law requires the testimony of each witness in cases of homicide to be reduced to writing, as specified. In cases other than homicide cases, existing law requires the testimony of each witness be reduced to writing, as specified, at the request of either the defendant or the prosecution. Existing law authorizes the magistrate before whom the examination of a witness is had to order that the testimony and proceedings be taken down in shorthand, and to appoint a shorthand reporter for that purpose. Existing law requires that deposition or witness testimony to be authenticated, as specified.

Under existing law, when a defendant is charged with a felony, the reporter is required to transcribe his or her shorthand notes within 10 days following the close of examination, making originals and copies available, as specified. If the defendant is charged with a crime other than a felony, existing law requires the reporter to transcribe his or her shorthand notes within 10 days following the close of examination, making originals and copies available, as specified, at the request of either the defendant or the prosecution.

This bill would instead require the reporter to transcribe his or her shorthand notes within 10 days following the close of examination,

making originals and copies available, as specified, when a defendant is charged with homicide. In all other cases, the bill would require the reporter to transcribe his or her shorthand notes at the request of the defendant or the prosecution, within 10 days following that request, making originals and copies available, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 869 of the Penal Code is amended to
2 read:

3 869. The testimony of each witness in cases of homicide shall
4 be reduced to writing, as a deposition, by the magistrate, or under
5 his or her direction, and in other cases upon the demand of the
6 prosecuting attorney, or the defendant, or his or her counsel. The
7 magistrate before whom the examination is had may, in his or her
8 discretion, order the testimony and proceedings to be taken down
9 in shorthand in all examinations ~~herein mentioned~~ *specified in this*
10 *section*, and for that purpose he or she may appoint a shorthand
11 reporter. The deposition or testimony of the witness shall be
12 authenticated in the following form:

13 (a) It shall state the name of the witness, his or her place of
14 residence, and his or her business or profession; except that if the
15 witness is a peace officer, it shall state his or her name, and the
16 address given in his or her testimony at the hearing.

17 (b) It shall contain the questions put to the witness and his or
18 her answers thereto, each answer being distinctly read to him or
19 her as it is taken down, and being corrected or added to until it
20 conforms to what he or she declares is the truth, except in cases
21 where the testimony is taken down in shorthand, the answer or
22 answers of the witness need not be read to him or her.

23 (c) If a question put be objected to on either side and overruled,
24 or the witness declines answering it, that fact, with the ground on
25 which the question was overruled or the answer declined, shall be
26 stated.

27 (d) The deposition shall be signed by the witness, or if he or
28 she refuses to sign it, his or her reason for refusing shall be stated
29 in writing, as he or she gives it, except in cases where the

1 deposition is taken down in shorthand, it need not be signed by
2 the witness.

3 ~~(e) The reporter shall, within 10 days after the close of the~~
4 ~~examination, if the defendant be held to answer the charge of a~~
5 ~~felony, or in any other case if either the defendant or the~~
6 ~~prosecution orders the transcript, transcribe his or her shorthand~~
7 ~~notes, making an original and one copy and as many additional~~
8 ~~copies thereof as there are defendants (other than fictitious~~
9 ~~defendants), regardless of the number of charges or fictitious~~
10 ~~defendants included in the same examination, and certify and~~
11 ~~deliver the original and all copies to the clerk of the superior court~~
12 ~~in the county in which the defendant was examined. The reporter~~
13 ~~shall, before receiving any compensation as a reporter, file his or~~
14 ~~her affidavit setting forth that the transcript has been delivered~~
15 ~~within the time herein provided for. The compensation of the~~
16 ~~reporter for any services rendered by him or her as the reporter in~~
17 ~~any court of this state shall be reduced one-half if the provisions~~
18 ~~of this section as to the time of filing said transcript have not been~~
19 ~~complied with by him or her.~~

20 *(e) (1) If the defendant is charged with homicide, the reporter*
21 *shall transcribe his or her shorthand notes within 10 days following*
22 *the close of examination, making an original, one copy, and as*
23 *many additional copies thereof as there are defendants (other than*
24 *fictitious defendants), regardless of the number of charges or*
25 *fictitious defendants included in the same examination, and certify*
26 *and deliver the original and all copies to the clerk of the superior*
27 *court in the county in which the defendant was examined. Before*
28 *receiving any compensation as a reporter, the reporter shall file*
29 *his or her affidavit setting forth that the transcript has been*
30 *delivered within the time required by this paragraph. The*
31 *reporter's compensation for services rendered by him or her as*
32 *the reporter in any court of this state shall be reduced by one-half*
33 *if the reporter does not comply with provisions of this paragraph*
34 *as to the time of filing the transcript.*

35 *(2) If the defendant is charged with a crime other than homicide,*
36 *and either the defendant or the prosecution requests, the reporter*
37 *shall transcribe his or her shorthand notes within 10 days following*
38 *the request, making an original, one copy, and as many additional*
39 *copies thereof as there are defendants (other than fictitious*
40 *defendants), regardless of the number of charges or fictitious*

1 *defendants included in the same examination, and certify and*
2 *deliver the original and all copies to the clerk of the superior court*
3 *in the county in which the defendant was examined. Before*
4 *receiving any compensation as a reporter, the reporter shall file*
5 *his or her affidavit setting forth that the transcript has been*
6 *delivered within the time required by this paragraph. The*
7 *reporter's compensation for services rendered by him or her as*
8 *the reporter in any court of this state shall be reduced by one-half*
9 *if the reporter does not comply with provisions of this paragraph*
10 *as to the time of filing the transcript.*

11 (f) In every case in which a transcript is delivered as provided
12 in this section, the clerk of the court shall file the original of the
13 transcript with the papers in the case, and shall deliver a copy of
14 the transcript to the district attorney immediately upon his or her
15 receipt thereof and shall deliver a copy of said transcript to each
16 defendant (other than a fictitious defendant) at least five days
17 before trial or upon earlier demand by him or her without cost to
18 him or her; provided, that if any defendant be held to answer to
19 two or more charges upon the same examination and thereafter
20 the district attorney shall file separate informations upon said
21 several charges, the delivery to each such defendant of one copy
22 of the transcript of the examination shall be a compliance with this
23 section as to all of those informations.

24 (g) If the transcript is delivered by the reporter within the time
25 hereinbefore provided for, the reporter shall be entitled to receive
26 the compensation fixed and allowed by law to reporters in the
27 superior courts of this state.